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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/480,309	01/10/2000	DAVID N. WILNER	11283/2	4170
30636	7590	12/29/2005	EXAMINER	
FAY KAPLUN & MARCIN, LLP 150 BROADWAY, SUITE 702 NEW YORK, NY 10038			ALI, SYED J	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/480,309

Applicant(s)

WILNER ET AL.

Examiner

Syed J. Ali

Art Unit

2195

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 29 November 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-3, 5, 8-10, 13-23 and 25-27.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

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Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that Kempf is an inappropriate reference for demonstrating how a user application interacts with a kernel space because Kempf allegedly requires such a process to switch into supervisor mode (Applicant's arguments, pgs. 3-4). Examiner notes that switching into supervisor mode is indeed the traditional manner of loading program code into an address space. However, Applicant has not persuasively shown that Kempf requires this. Applicant points to col. 6 lines 60-64 of Kempf, which makes no mention of switching into a supervisor mode. Rather, Kempf does just the opposite, i.e. Kempf discusses the traditional operating system approach of switching into supervisor mode (col. 1 lines 32-42) before discussing a work-around that allows for non-supervisor mode cross address space linking (col. 8 lines 31-34, 60-66). Thus, the portion of Kempf relied upon as allegedly requiring a user process enter supervisor mode actually teaches exactly the opposite.

Applicant argues that the address translation tables of Cannavino do not correspond to the protection view of the claimed invention because the address translation table does not specify objects that are accessible by the domain by which the table is owned. Implicit within this argument would be the suggestion that the claimed protection view does specify the objects that are accessible by the domain. To the contrary, the claimed invention only requires a determination that the object being referenced is not within a protection view, i.e. the object is inaccessible unless the second domain is attached to the first. Cannavino teaches this feature by way of "ASN authorization" that determines whether the second address space can be loaded into the primary address space. If the authorization test fails, the second address space is not within the protection view of the first address space. Thus, Cannavino teaches how to determine if the external location is within a second domain that is within a protection view of the first domain while avoiding switching into supervisor mode.

Applicant argues that Chu does not teach attaching a second domain to a first domain, specifically attaching a kernel space to a user space and vice versa. As support, Applicant points to the portion of Chu that describes the use of an intermediary domain as "undesirable" and contends that Chu is overcome by claiming a method that improves upon the conventional attachment scheme. Applicant's arguments are not persuasive for several reasons. First, that Chu describes an improvement upon conventional techniques does not indicate that the conventional techniques are not part of the prior art. In fact, the only portion of Chu relied upon is that which shows the prior art convention of attaching a user space to a kernel space or vice versa. Providing improvements is not the same as "teaching away" or the like. Furthermore, Applicant's contention that the claimed invention is an improvement over the conventional techniques described in Chu are merely presented as though it is self-evident. Applicant submits that the claimed invention "attaches directly to a second domain", i.e. no intermediary domain is needed. However, the portion of the claim relating to attachment specifies only "attaching the second domain to the first domain using an attachment mechanism." Applicant has failed to show how the attachment mechanism is necessarily anything more than the conventional, well-known techniques of attaching domains shown by Chu. Nothing in the claim even closely suggests that no intermediary domain can be used. By stating simply "attaching the second domain to the first domain using an attachment mechanism", Applicant has given the claim broad scope. The claimed "attachment mechanism" could be the mechanism of attaching to an intermediary domain and then attaching to the first domain. If a narrower reading is intended, Applicant must amend the claims.

The arguments addressed above are repeated with respect to the other independent and dependent claims. As they have been shown to be without merit, the application stands rejected over the combination presented in the final rejection.